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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

24 OCT 19 ... INDIA

LOK SABHA

The following Bills were introduced in Lok Sabha on the 8th May, 1970:—

BILL No. 47 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1970. Short title and commencement.

(*2*) It shall come into force on such date within six months of its enactment, as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 24 of the Constitution, the following new articles shall be inserted, namely:— Insertion of article 24A and 24B.

"RIGHT TO EMPLOYMENT

24A. (*1*) Every citizen over the age of eighteen years shall have the right to employment. Right to employment and monetary assistance

(*2*) Where a citizen fails to secure any employment, the State shall provide him with monetary assistance necessary for his sustenance.

RIGHT TO EDUCATION

Right to education.

24B. (1) All children upto the age of eighteen years shall have the right to free and uniform education.

(2) Education shall be compulsory for all children upto the age of fourteen years."

STATEMENT OF OBJECTS AND REASONS

Article 41 of the Constitution enjoins upon the State to provide work or public assistance in cases of unemployment to all citizens. But since the right to work is only a part of the Directive Principles of State Policy, it is not justiciable at present. This is the principal cause for the failure of the State to plan for full employment and provide for unemployment insurance. The Bill seeks to make the right to work and to monetary compensation in cases of unemployment fundamental rights and thereby make them justiciable.

Article 45 of the Constitution provides for free and compulsory education up to the age of fourteen years. This too is not justiciable being only a part of the Directive Principles. An egalitarian society cannot be built without a fundamental right to free, compulsory and uniform education till the secondary stage. The Bill seeks to provide for this right, and thus hasten the process of building a socialist society in India.

NEW DELHI;
The 26th March, 1970.

GEORGE FERNANDES

FINANCIAL MEMORANDUM

The Bill provides for payment of monetary assistance to persons who do not have employment as also for free education to children upto the age of 18 years (clause 2). This would involve recurring expenditure of about ten lakh rupees from the Consolidated Fund of India in respect of union territories. No non-recurring expenditure is likely to be involved. Expenditure in respect of the States will be met by the State Governments.

BILL No. 50 OF 1970

A Bill to control the prices of all essential consumer articles.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Price Control Act, 1970. Short title and commencement.

(*2*) It shall come into force at once.

2. The prices of essential consumer articles shall not exceed one and a half times the cost of production and transport charges. Formula for fixing the price.

3. (*1*) **A Central Price Control Board shall be set up.** Setting up and Constitution of Central Price Control Board.

(*2*) The Board shall consist of representatives of manufacturers, consumers, trade unions of workers, agriculturists, Central and State Governments, and such other persons as the Government may decide to nominate under Rules made in this behalf.

4. (*1*) The Board shall fix the prices of all essential consumer articles in the manner laid down in section 2 and get them enforced. Functions of the Board.

(*2*) The Board shall decide the articles which shall be termed as "essential consumer articles" for the purposes of this Act.

5. The Central Government shall, by notification in the Official Gazette, frame rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The prices of the consumer goods have been increasing at a rate that has made life very difficult for the common people. All attempts at pegging down prices have so far proved useless for want of a definite price policy and an effective machinery to implement it. The Bill seeks to provide that the prices of all essential consumer articles shall not exceed one and a half-times the cost of production and transport charges.

This will enable the Government to keep a check on spiralling prices and provide relief to the common man. It will also bring a halt to inflationary tendencies in the country and help in linking salaries to prices.

NEW DELHI;
The 28th March, 1970.

GEORGE FERNANDES

FINANCIAL MEMORANDUM

Clause 3 provides for the appointment of a Central Price Control Board. The initial non-recurring cost of establishment etc. is estimated at one lakh rupees. The annual recurring expenditure on the staff and on the members of the Board is not expected to exceed fifty thousand rupees.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 empowers the Central Government to make rules for the appointment of the Board and for implementation of its decisions. The proposals are of normal character.

BILL NO. 51 OF 1970

A Bill to provide for the establishment of Civil Liberties Commissions to investigate violation of legality and fundamental personal freedoms guaranteed by the Constitution.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Civil Liberties Commissions Act, 1970.

(*2*) It shall come into force—

(*i*) in the Union territories within a period of three months from the date on which the Bill receives the assent of the President, and

(*ii*) in the States on such dates as the State Governments concerned may, by notification in the Official Gazette, appoint.

Establishment and Constitution of Civil Liberties Commissions.

2. (1) There shall be established in every State and Union territory a Civil Liberties Commission, hereinafter referred to as the Commission, consisting of not more than three members.

(2) The Commissions shall consist of former judges of the High Courts or of Supreme Court or persons who are qualified to be appointed judges of the Supreme Court or a High Court.

Mode of appointment, terms of office and other conditions of service of members of the Commissions.

3. (1) The appointment of the members of the Commissions shall be made by the respective State Governments in consultation with the Chief Justice of the High Court of the State, and in the case of Union territories, by the Central Government in consultation with the Chief Justice of the Supreme Court.

(2) The term of office of the members of the Commissions shall be three years.

(3) The members of the Commissions shall not be eligible for reappointment.

(4) The total salary, emoluments and amenities of a member of the Commission shall not exceed one thousand and five hundred rupees per month.

Functions and powers of the Commissions.

4. (1) It shall be the duty of the Commissions to collect information about the police procedures and administration of justice and take steps to ensure protection of citizens' personal freedoms.

(2) The Commissions shall have the power to visit the departments concerned with the administration of justice and criminal law and protection of civil liberties, ask for papers and files and take such other action as may be necessary for the proper execution of their duty.

(3) The Commissions shall have the power in appropriate cases to help the aggrieved citizens in the matter of securing enforcement of their rights in courts of law.

(4) The Commissions shall be entitled to suggest corrective action by way of legislative amendments or administrative reform or executive action either in their annual reports or through interim reports specially drawn up for the purpose.

(5) The Commissions shall submit annual reports for each calendar year to the Legislature of the State concerned, and in the case of Union territories to the two Houses of Parliament before the 31st March of the subsequent year.

Staff of Commissions.

5. The Commissions shall be provided by the respective Government with full-time expert staff, including personnel with legal training and experience of the functioning of police, jail and law departments.

Citizens to be entitled to place grievances before the Commissions.

6. Every citizen, resident of the State or Union territory, shall be entitled to place his grievances before the respective Commission.

Power to make rules.

7. The Central Government and the State Governments may frame rules for the transaction of business by the Commission functioning in their respective jurisdictions.

STATEMENT OF OBJECTS AND REASONS

Despite our constitutional guarantees, including the citizen's right to move the Supreme Court for the enforcement of fundamental rights under article 32 of the Constitution, instances daily multiply of the breach of legality and harassment of common citizens by the police and magistracy.

There is, in the first place, a lack of awareness on the part of the oppressed people of their rights. Secondly, because of their poor financial condition they cannot seek effective legal remedy, and so the tyranny of the executive remains unchecked.

The common citizens, especially the Scheduled Castes and Scheduled Tribes, suffer from numerous disabilities, and the law affords very little protection to these helpless people. They are often prevented from exercising their voting rights. Discrimination is also practised against the minorities, openly or in subtle ways, which it should be the bounden duty of the Government to prevent.

This Bill seeks to establish Civil Liberties Commissions in the States and Union territories in order to fill an important lacuna in our legal system, administration of our criminal law and enforcement of citizens' fundamental rights.

These Commissions will be charged with the task of systematically reviewing the law and practice in the various spheres affecting civil liberties. Citizens shall be entitled to bring their grievances to the attention of these Commissions so that it would become a storehouse of information. They would be empowered to do what the Law Commission is not entitled to do, that is to say, to go into the branches connected with the administration of Criminal Law, that is, Departments of Police, Home, Law and Jails and learn at first had what is their practice by examination of the files. Failure to provide for on the spot investigation is often destructive of Government responsibility towards the people. While the Legislatures sometimes fulfil an important function in this matter, they cannot give as much attention to this problem as a Civil Liberties Commission fully empowered to investigate these matters would be able to do. People at the top in the Departments whose work has bearing on civil liberties have very little personal experience of how the Police and the Magistracy are functioning at the lower levels. Even the knowledge of some of the top-flight lawyers who practise in the Supreme Court and High Courts is not based on practical experience.

Since the Civil Liberties Commission will be provided with full time expert staff, including research assistants, to report from first hand investigation on the protection of civil liberties, its report will be a great help to the Legislatures in solving the grievances of the people and

suggesting corrective action by way of legislative amendments, or administrative reform or executive action.

The setting up of the Civil Liberties Commissions will make the fundamental rights a reality for our common people.

NEW DELHI;
The 28th March, 1970.

MADHU LIMAYE

FINANCIAL MEMORANDUM

Clauses 2(*1*), 3(*4*) and 5 of the Bill provide for establishment of Civil Liberties Commissions and payment of emoluments to the members and staff of the Commissions. It will be the responsibility of the State Governments to pay the emoluments to the members of the Civil Liberties Commissions in their respective States.

As far as the Union territories are concerned, the recurring expenditure will be less than two lakh rupees per year. Non-recurring expenditure of about fifty thousand rupees will also be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central and State Governments to frame rules for the transaction of business by the Civil Liberties Commissions.

The delegation of power is of a normal character and entirely in consonance with the provisions of the Constitution.

BILL NO. 48 OF 1970

A Bill to provide for the effective functioning of the Leader of the Opposition in Lok Sabha and in Rajya Sabha.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Leader of the Opposition Act, 1970.

(*2*) It shall come into force at once.

Definition.

2. In this Act, "Leader of the Opposition" means the person who has been declared as the Leader of the Opposition of the House of the People or of the Council of States by the Speaker of the House of the People or the Chairman of the Council of States, as the case may be.

Salary and allowances etc. of the Leader of the Opposition.

3. In addition to the salary, allowances, facilities, rights and concessions to which the Leader of the Opposition may be entitled to by virtue of his being a member of the House of the People or of the Council of States, as the case may be, the Leader of the Opposition shall be entitled to the same salary, allowances, facilities with respect to staff, other facilities, rights and secretariat concessions to which a Minister of the Cabinet rank in the Council of Ministers of the Union Government is entitled.

Access to information.

4. The Leader of the Opposition in his discretion, and in order effectively to discharge his duties, may, through the Minister-in-charge of the Ministry concerned, see for his personal information any official file or document and shall, with respect to such information, be bound by the same rules with respect to secrecy as would be applicable to the Minister concerned.

STATEMENT OF OBJECTS AND REASONS

For the nrst time in the history of the Republic of India, Leader of the Opposition has been officially recognised in each of the two Houses of Parliament.

It is seen that in a number of Parliamentary democracies abroad the Leader of the Opposition has been accorded a status of his own and this has been considered necessary as he is Leader of the Opposition and has to discharge his duties as such. The nature of the duties involves vigilant contact not only with members of his own party, but also with members of other parties.

Apart from the financial obligations which the due discharge of the work is bound to involve, it is essential that the Leader of the Opposition should have access to official information. In the United Kingdom, the Leader of the Opposition is taken into confidence even in matters of peace and war and not only in routine official matters. That is necessary if the traditions of a responsible and effective opposition are to develop.

Hence this Bill.

MANUBHAI PATEL

NEW DELHI;

The 2nd April, 1970.

FINANCIAL MEMORANDUM

The recurring expenditure will be the salary of the Leader of the Opposition (who will be of the rank of a Cabinet Minister) and his staff, expenditure on such items as tours (self and of Private Secretary, P.A. or any other attendant and peon) and the maintenance of his establishment, *viz.* office stationery, telephone bills, postage, telegrams, etc., as is admissible to a Cabinet Minister (*vide* clause 3). It will approximately be two lakh rupees.

The non-recurring expenditure will be expenditure on a staff car, office furniture, etc. and will be approximately fifty thousand rupees.

BILL No. 46 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1970.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 222.

2. For clause (*1*) of article 222 of the Constitution, the following clause shall be substituted, namely:—

"(*1*) After every term of five years, or sooner, if necessary every Judge of the High Court of a State, including Chief Justice of the High Court of the State, shall be transferred by the President, in consulation with the Chief Justice of India, from one High Court to any other High Court.".

STATEMENT OF OBJECTS AND REASONS

At present a person appointed as a Judge of a High Court continues to work in the same High Court till he attains the age of retirement unless he is elevated to the Supreme Court. This method cannot be considered as satisfactory and it would be in the fitness of things if a compulsory provision for transfer of High Court Judges after every term of five years or earlier, if necessary, is made. This provision would ensure and strengthen the Judicial independence which is absolutely necessary for enforcing the Rule of Law. The existing clause (1) of article 222 does not fulfil this requirement.

Hence this Bill.

NEW DELHI;
The 7th April, 1970.

OM PRAKASH TYAGI

BILL NO. 49 OF 1970

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Industrial Disputes (Amendment) Act, 1970.

Amendment of section 2

14 of 1947.

2. In section 2 of the Industrial Disputes Act, 1947, (hereinafter referred to as the principal Act),—

(*a*) in clause (*j*), the following shall be added at the end, namely:—

"non-teaching occupation in any University, college, school and other educational institutions or institutions for carrying research work, auditors or solicitors firm and any other establishment as the State Government may, by notification in the Official Gazette, declare as industry"

(*b*) in part (iv) of clause (s), for the words "five hundred rupees" the words "one thousand and six hundred rupees" shall be substituted.

Omission of section 9B.

3. Section 9B of the principal Act shall be omitted.

Amendment of section 12.

4. In section 12 of the principal Act, to sub-section (*4*), the following proviso shall be inserted, namely:—

"Provided that the report of the conciliation officer shall be submitted to the appropriate Government within three months from the date of commencement of the conciliation proceedings."

Amendment of section 22.

5. In section 22 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) A workman or a group of workmen employed in service in hospital and dispensaries, fire brigade service, electricity generation and distribution and water works department of Municipal Corporation can go on strike by giving to the employer 15 days notice, as hereinafter provided.";

(*b*) sub-section (*3*) shall be omitted.

Amendment of section 23.

6. In section 23 of the principal Act, for the words "No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out", the words "No employer of any workman shall declare a lock-out" shall be substituted.

Amendment of section 24.

7. In section 24 of the principal Act,—

(*a*) in sub-section (*1*), the words "A strike or" shall be omitted;

(*b*) sub-sections (*2*) and (*3*) shall be omitted.

Omission of section 25.

8. Section 25 of the principal Act shall be omitted.

Amendment of section 25B.

9. In section 25B of the principal Act,—

(*a*) in clause (*1*), the words "which is not illegal" shall be omitted;

(*b*) in part (*ii*) of sub-clause (*a*) of clause (*2*), for the words "two hundred and forty" the words "two hundred and ten" shall be substituted;

(*c*) in part (*ii*) of sub-clause (*b*) of clause (*2*), for the words "one hundred and twenty" the words "one hundred and five" shall be substituted.

Amendment of section 25C.

10. In section 25C of the principal Act,—

(*a*) the brackets and words "(other than a *badli* workman or a casual workman)" shall be omitted;

(*b*) for the words "fifty per cent of the total of the basic wages and dearness allowance", the words "seventy-five per cent. of the average pay" shall be substituted;

(*c*) the provisos and the Explanation shall be omitted.

11. In section 25E of the principal Act,— Amendment of section 25E.

(a) **in part (i), for the words "or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer,", the word "if" shall be substituted;**

(*b*) **part (*iii*) shall be omitted.**

12. In section 25F of the principal Act,— Amendment of section 25F.

(*a*) in part (*a*), for the words "one month's", the words "three months'" shall be substituted;

(*b*) **in part (*b*), for the words "fifteen days'", the words "one month's" shall be substituted.**

13. In section 25FF of the principal Act,— Amendment of section 25FF.

(*a*) for the words "notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched", the words "employment under a new employer without any change in terms and conditions of employment or break in service" shall be substituted;

(*b*) the proviso shall be omitted.

14. In section 25FFF of the principal Act,— Amendment of section 25FFF

(*a*) in sub-section (*1*),—

(*i*) the words "subject to the provisions of sub-section (*2*)" shall be omitted; and

(*ii*) the words "and such compensation shall have priority over all unsecured liabilities whatsoever of the employer" shall be inserted at the end;

(*b*) the proviso and the Explanation shall be omitted;

(*c*) for the existing sub-section (*2*) the following sub-section shall be substituted:—

"(*2*) **Where any undertaking set-up for the construction of buildings, bridges, roads, canals, dams or other construction work is closed down on account of completion of work, a workman shall be entitled to notice and compensation under that section for every completed year of service or part thereof in excess of six months in accordance with section 25F.**";

(*d*) after sub-section (*2*), the following shall be inserted, namely:—

"(*3*) Where any workmen are retrenched on account of closure and an employer or a new employer after transfer proposes to reopen the 'industrial establishment' and take into his employ any persons, he shall in such a manner as may be prescribed give priority to the retrenched workmen who offer themselves for re-employment over other persons."

15. In section 25G of the principal Act, the words "unless for reasons to be recorded the employer retrenches any other workman" shall be omitted. Amendment of section 25G.

Amendment of section 26.

16. In section 26 of the principal Act, sub-section (*1*) shall be omitted.

Omission of sections 27 and 28.

17. Sections 27 and 28 of the principal Act shall be omitted.

Amendment of section 33.

18. In section 33 of the principal Act,—

(*a*) in sub-section (*1*), for the words "express permission" the words "express prior permission" shall be substituted;

(*b*) after sub-section (*1*), the following new sub-section shall be inserted, namely:—

"(*1A*) **During the pendency of the proceedings against a workman under clause** (b) **of sub-section** (*1*) **before a conciliation officer or a Board or proceedings before an arbitrator or Labour Court or Tribunal, he shall be treated as suspended workmen and the employer shall pay him subsistence allowance till the case is finally settled.**";

(*c*) part (*b*) of sub-section (*2*) and the proviso shall be omitted;

(*d*) in sub-section (*3*), for the words "express permission", the words "express prior permission" shall be substituted;

(*e*) sub-section (*5*) shall be omitted.

Amendment of section 33A.

19. In section 33A of the principal Act, for the words "before a Labour Court", the words "before a conciliation officer or a Board Labour Court", shall be substituted.

Amendment of section 34.

20. In section 34 of the principal Act,—

(*a*) in sub-section (*1*), the words "or by an aggrieved workman or by a registered trade union in which case no authorisation from the appropriate Government shall be necessary" shall be inserted at the end;

(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely:—

"(*2*) A complaint as per sub-section (*1*) of this section may be lodged before a Labour Court or Tribunal or National Tribunal or before such other authority as notified by the appropriate Government. On receipt of such complaint the authority before whom such a complaint is filed shall assume jurisdiction and powers of Presidency Magistrate or Magistrate First Class for considering the matter and award appropriate punishment if necessary."

STATEMENT OF OBJECTS AND REASONS

The existing provisions regarding settlement of industrial disputes are heavily loaded in favour of employers and against the workers. It imposes several restrictions on strikes of the workers which make virtually impossible for the trade unions to organise a legal strike. The experience of the last twenty-two years of its implementation has clearly established this fact. The Bill seeks to remove these difficulties and provide for an unhindered right to strike for the workers with a view to make the concept of collective bargaining meaningful for the working class.

The prevailing definition of industry excludes large sections of the workers from the purview of any legal machinery for the settlement of industrial disputes. For instance, non-teaching occupations of the educational and research institutions as well as auditors or solicitors firms are not covered by the Act. These employees are in practice denied even right to organise since the trade unions in these sectors are not even obtaining registration today. It is proposed to remove this lacuna by moving amendment in this respect.

The quantum of retrenchment compensation is extremely inadequate and workers are today facing acute difficulties after retrenchment. It is, therefore, proposed to increase the compensation and remove the several restrictions imposed even on payment of this compensation. Similarly, it is also proposed to increase the rate of lay-off compensation and to remove the limits imposed on the payment of lay-off compensation.

At present, after closure of a factory when the employer or a new employer re-opens the same it is not binding on him to take back the retrenched workers on duty. This provision has given rise to several *mala fide* closures which adversely affect the interests of workers. The Bill seeks to give a job security for such retrenched workers who would get priority in the matter of re-employment.

The employers have been victimising several workers today even during the pendency of the disputes using the loopholes of the present Act. It is proposed to put restrictions on employers so that at least in certain cases the employers are prevented from resorting to unfair practices.

The present legal machinery is extremely dilatory and an aggrieved worker has to wait for years till his case is finally settled. This gives encouragement to employers to delay the legal proceedings with a view to fire out a worker. This Bill seeks to ensure some subsistence allowance to a worker till his case is finally settled.

The present conciliation machinery is time consuming and creates several obstructions in speedy settlement of disputes. The Bill, therefore, seeks to provide for time limit of three months for completing the conciliation proceedings.

This Bill does not claim to cover all the aspects of industrial relations. However, some existing irritants are sought to be removed. It will help the reduction in time taken for settlement of industrial disputes.

This Bill will no doubt give a new impetus to the growth of healthy trade union movement which is today bogged down in the litigation and is heavily dependent on official apparatus.

NEW DELHI; R. UMANATH.

The 3rd April, 1970.

FINANCIAL MEMORANDUM

Clauses 10, 11, 12, 13, 14 and 18 of the Bill seeks to increase the quantum of retrenchment compensation, to remove several restrictions imposed even on payment of this compensation, to increase the rate of lay-off compensation and to remove the limits imposed on the payment of lay-off compensation. Clause 18 of the Bill provides for the payment of subsistence allowance during the pendency of proceedings. These may entail some additional financial liability in the form of enhanced compensation in respect of industries directly run by the Central Government.

2. Since the financial liability will devolve only in the event of retrenchment, lay-off of workers and grant of subsistence allowance, there are practical difficulties in estimating the expenditure from the Consolidated Fund of India. The non-recurring expenditure is not likely to exceed rupees fifty lakhs. There will be no recurring expenditure.

S. L. SHAKDHER,
Secretary.

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